

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Military Affairs and Domestic Security Committee

BILL: SPB 7054

INTRODUCER: For consideration by the Military Affairs and Domestic Security Committee

SUBJECT: Seaport Security

DATE: February 11, 2009 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Pardue	Skelton		Pre-meeting
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Senate Proposed Bill 7054 responds to several of the recommendations made in Senate Interim Project Report 2009-122. The bill substantially amends s. 311.12, F.S., relating to seaport security policy. The bill retains certain portions of Florida’s current seaport security law while realigning other portions to present an overall program that better coincides with federal seaport security efforts. The bill repeals s. 311.111, F.S., relating to seaport security area designations and s. 311.125, F.S., relating to the Uniform Port Access Credential. Residual language from those sections is placed in s. 311.12, F.S.

This bill substantially amends section 311.12; amends sections 311.123, 311.124, 311.13, 943.0585, and 943.059; and repeals sections 311.111 and 311.125 of the Florida Statutes.

II. Present Situation:

Senate Interim Project 2009-122 reviewed the current state of Florida’s seaport security environment. In receiving the report, the Senate Military Affairs and Domestic Security Committee accepted several staff recommendations for immediate action including those recommendations regarding the need to review and modernize state law and better align state law to federal regulations.¹

The purpose of s. 311.12, F.S., is to protect the residents, visitors, and the economic assets of the state while maintaining a free flow of commerce in Florida’s public seaports. This section of

¹ Note: Senate Proposed Bill 7054 does not incorporate all of the staff recommendations of Senate Interim Project Report 2009-122 due to time and funding limitations.

statutes originally targeted problems associated with illicit drug trafficking, associated money laundering, and cargo theft on the state's public seaports. Florida Statutes evolved after 2001 to also address acts of terrorism.

Florida's public seaports represent an important component of the state's economic infrastructure. The Florida Ports Council estimated that by 2008, the annual economic impact of Florida's seaports would have approached approximately 350,000 jobs, \$43 billion in gross economic output, and \$1.3 billion in annual state and local tax revenues.² Staff reviews of major ports' annual reports, audits, and "State of the Port" presentations confirmed growth of commercial activity in difficult economic environments for all but one port. The Port of Miami reported declines in cargo activity, but increased cruise activities for the period.³

Because of the ports' importance to the economy of Florida, a level of security that protects against acts of terrorism, trafficking in illicit drugs, cargo theft, and money laundering operations has been deemed essential by the Florida Legislature.

Security requirements for Florida's fourteen deepwater public ports are provided under ch. 311, Florida Statutes. For purposes of protection against acts of terrorism, these ports are also regulated by federal law under the Maritime Transportation Security Act of 2002 (MTSA),⁴ the Security and Accountability for Every Port Act (SAFE Port Act),⁵ and the Code of Federal Regulations (CFR).⁶ In addition, provisions of international treaties such as the Safety of Life at Sea (SOLAS), which protect the safety of merchant ships, have been incorporated within the CFR in fulfillment of treaty obligations that affect seaport security at United States and foreign ports.

Concern over the impact of illicit drugs and drug trafficking came to the forefront in Florida during the mid to late 1990s. According to a Senate Interim Project Summary report at the time, in 1997 there were more cocaine-related deaths in Florida than murders. During 1996, more than 32 tons of cocaine and more than 42 tons of marijuana were seized in Florida.⁷

In the 1999-2000 timeframe, three events contributed to the development of a seaport security framework for Florida:

First, the presiding officers of the Legislature formed a task force that examined, among other things, the issue of money laundering related to illicit drug trafficking.⁸ The task force found that Florida was attractive to drug traffickers due to a number of factors including Florida's strategic

² Florida Ports Council, "Florida Seaports' Statewide and Regional Strategic Visioning Process," July-September 2006, Presentation on Results of Strategic Visioning, September 27, 2006.

³ Jaxport 2008 Annual Report, 2008 Port Canaveral Annual Report, Port Everglades 2007 Annual Report, 2007 Port of Miami Comprehensive Financial Report, and Port of Tampa "State of the Port" report.

⁴ Public Law (P.L.) 107-295, 116 Stat. 2064 (2002).

⁵ P.L. 109-347, 120 Stat. 1884 (2006).

⁶ Principally 33 CFR, Parts 101 – 106 as they relate to various aspects of vessel and port security.

⁷ Florida Senate, Interim Project Summary 98-13, "Developing a Comprehensive Drug Control Strategy for Florida," November, 1998, p. 2.

⁸ Legislative Task Force on Illicit Money Laundering, "Money Laundering in Florida: Report of the Legislative Task Force", November 1999.

position near drug source countries and numerous international airports and deep water seaports.⁹ The task force provided a number of recommendations including designating a state agency responsible for seaport and airport security and described the then current seaport security situation by saying:

“Customs considers poor seaport security a major reason for drug smuggling. Unlike airports, there is no viable system of federal regulations mandating specific security standards for seaports and marine terminals. Fairly new regulations govern security for large passenger vessels and cruise ship terminals. There are however, no corresponding federal regulations for sea cargo vessels and seaport and marine terminals.”¹⁰

Second, the Governor’s Office of Drug Control commissioned a Statewide Security Assessment of Florida Seaports. The report, which came to be known as the Camber Report,¹¹ concluded that there was no supervisory agency with oversight of the seaports of the state, no federal or state security standards that governed the seaports’ operation, and only limited background checks were conducted on employees at the docks, thus allowing convicted felons, some with arrests for drug-related charges, to work at the seaports.

The report recommended the creation of a State Seaport Authority to regulate all seaports in the state, creation of minimum security standards for all seaports, and the creation and implementation of a security plan by the operators of each seaport.

Third, the Fifteenth Statewide Grand Jury conducted an analysis of Florida’s drug control efforts. The Statewide Grand Jury supported the conclusions and recommendations of the Camber Report and highlighted the need for background screening due to testimony they received that “some dock workers carry firearms and that intimidation by dock workers is used as a method of avoiding detection of illegal drug activity.”¹² The report cited efforts to impede law enforcement officers at the Miami seaport including simple harassment, blocking law enforcement vehicles with cargo containers, and even dropping a cargo container on a law enforcement vehicle occupied by police canine. Testimony revealed that as many as 60 percent of the Port of Miami dock workers had felony arrests, half of which were drug related charges.¹³

The 2000 Legislature passed CS/CS/CS/SB 1258.¹⁴ This legislation provided additional regulations for money laundering and created s. 311.12, F.S., relating to seaport security. In creating s. 311.12, F.S., the Legislature introduced regulation of seaports that benefited from public financing and provided for:

- Development and implementation of a statewide seaport security plan including minimum standards for seaport security that address the prevention of criminal activity and money laundering;

⁹ Ibid, p. 18.

¹⁰ Ibid, p. 46.

¹¹ Camber Corporation for the Office of Drug Control, Executive Office of the Governor, “Statewide Security Assessment of Florida Seaports,” September 2000.

¹² Fifteenth Statewide Grand Jury Report, “An Analysis of Florida’s Drug Control Efforts,” December 14, 2000.

¹³ Ibid.

¹⁴ 2000-360, Laws of Florida (L.O.F.)

- Development of individual seaport security plans at each of the ports listed in s. 311.09 (1), F.S.¹⁵;
- Establishment of a fingerprint-based criminal history check of current employees and future applicants for employment at Florida's seaports; and
- A requirement directing the Florida Department of Law Enforcement (FDLE) to annually conduct no less than one unannounced inspection at each of the public ports and report its findings to the Governor, the President of the Senate, the Speaker of the House, and the chief administrator of each seaport inspected.

Section 311.12, F.S., was amended during the 2001 Legislative Session to incorporate seaport security standards.¹⁶ The section has been further amended to disqualify persons who have been convicted of certain offenses within the previous seven years from gaining initial employment within or regular access to a seaport or port restricted access area. Current disqualifying offenses relate to terrorism, distribution or smuggling of illicit drugs, felony theft and robbery, money laundering, and felony use of weapons or firearms.

Attacks on America Changed the Seaport Security Environment

The terrorist attacks on America brought security issues into sharper focus. Florida adapted its existing seaport security structure to accommodate anti-terrorism measures in addition to its previous efforts against illicit drug trafficking, cargo theft, and money laundering.

Since September 11, 2001, the U.S. Congress has produced multiple pieces of legislation that affect seaport security. This effort included passage of the Homeland Security Act of 2002 which resulted in a major governmental reorganization that created the Department of Homeland Security (DHS).¹⁷ The U. S. Customs and Border Protection agency (CBP) was transferred to DHS with the mission to prevent terrorists and terrorist weapons from entering the U. S.¹⁸ The Transportation Security Administration (TSA) was transferred to DHS with the mission of overseeing security for highways, railroads, buses, mass transit systems, ports, and the nation's 450 commercial airports.¹⁹ The U. S. Coast Guard (USCG) was also transferred to DHS and given the mission of lead federal agency for maritime homeland security including ports, waterways, and coastal security as well as drug interdiction.²⁰

¹⁵ The seaports listed in s. 311.09(1), F.S., include the ports of Jacksonville, Port Canaveral, Fort Pierce, Palm Beach, Port Everglades, Miami, Port Manatee, St. Petersburg, Tampa, Port St. Joe, Panama City, Pensacola, Key West, and Fernandina. The ports of Fort Pierce and Port St. Joe are currently exempted from annual inspection under the provisions of s. 311.12, F.S., based on a finding that these seaports are considered inactive for purposes of the statute.

¹⁶ Note: Camber Report standards were incorporated in s. 311.12, F.S., by 2001-112, L.O.F. These standards form the basis for FDLE's current seaport security inspection program.

¹⁷ The Homeland Security Act of 2002, P.L. 107-296 (2002).

¹⁸ Department of Homeland Security Fact Sheet @ www.dhs.gov/dhspublic/display?theme=43&content=5437&print=true.

¹⁹ Transportation Security Administration, What is TSA? @ www.TSA.gov.

²⁰ Congressional Research Service, "Homeland Security: Coast Guard Operations – Background and Issues for Congress," October 25, 2006. Note: According to this report, under the Ports and Waterways Safety Act of 1972 (P.L. 92-340) and the Maritime Transportation Security ACT of 2002 (P.L. 107-295 of November 25, 2002), the Coast Guard has responsibility to protect vessels and harbors from subversive acts. With regard to port security, the Coast Guard is responsible for evaluating, boarding, and inspecting commercial ships approaching U. S. waters, countering terrorist threats in U.S. ports, and helping protect U. S. Navy ships in U. S. ports. A Coast Guard officer in each port area is designated the COPT to serve as the lead federal official for security and safety of vessels and waterways in that area.

Congress passed the MTSA in November of 2002, thereby laying out the federal structure for defending U.S. ports against acts of terrorism. In passing MTSA, Congress primarily set forth direction for anti-terrorism activities but also recognized in its findings that crime on ports in the late 1990's including, drug smuggling, illegal car smuggling, fraud, and cargo theft had been a problem. In laying out a maritime security framework, MTSA established a requirement for development and implementation of national and area maritime transportation security plans, vessel and facility security plans, and a transportation security card²¹ along with requirements to conduct vulnerability assessments for port facilities and vessels and establishment of a process to assess foreign ports, from which vessels depart on voyages to the United States.²²

The MTSA is implemented by Title 33 Code of Federal Regulations (CFR).²³ Title 33 CFR provides for review and approval of Facility Security Plans²⁴ by the Captain of the Port (COTP) responsible for each seaport area.²⁵ The USCG also acknowledged Presidential Executive Order 13132 regarding the principle of Federalism and preemption of state law in drafting MTSA rules.²⁶ Under this provision, Florida has the right to exercise authority over its public seaports that are also regulated by federal authority when there is no conflict between state and federal regulations. Executive Order 13132 states in Section 4:

(a) Agencies shall construe, in regulations and otherwise, a Federal statute to preempt State law only where the statute contains an express preemption provision or there is some other clear evidence that the Congress intended preemption of State law, or where the exercise of State authority conflicts with the exercise of Federal authority under the Federal statute.

(b) Where a Federal statute does not preempt State law (as addressed in subsection (a) of this section), agencies shall construe any authorization in the statute for the issuance of regulations as authorizing preemption of State law by rulemaking only when the exercise of State authority directly conflicts with the exercise of Federal authority under the Federal statute or there is clear evidence to conclude that the Congress intended the agency to have the authority to preempt State law.²⁷

The SAFE Port Act, enacted in October 2006, created some new maritime security programs and amended some of the original provisions of MTSA. The act:

²¹ The Maritime Transportation Security Act of 2002 (P.L. 107-295 of November 25, 2002)

²² Government Accountability Office, "Maritime Security, One Year Later: A Progress Report on the SAFE Port Act," GAO-18-171T, October 16, 2007, p. 1.

²³ Title 33 CFR, Parts 101 through 106 which are administered by the USCG.

²⁴ Title 33 CFR, Subpart 101.105 defines a facility as any structure or facility of any kind located in, on, under, or adjacent to any waters subject to the jurisdiction of the U.S. and used, operated, or maintained by a public or private entity, including any contiguous or adjoining property under common ownership or operation. A seaport may be considered a facility by itself or in the case of large seaports may include multiple facilities within the port boundaries.

²⁵ Note: This is significant in Florida in that port tenants individually bear security plan responsibility under USCG administration of Title 33 CFR, while ch. 311, F.S., holds each seaport's port authority responsible for security plan development and implementation.

²⁶ Federal Register, Vol. 68, No. 204, Wednesday, October 22, 2003, p. 60468.

²⁷ Presidential Executive Order 13132, "Federalism," August 4, 1999.

- Codified the Container Security Initiative and the Customs-Trade Partnership Against Terrorism (C-TPAT) which are two programs administered by CBP to help reduce threats associated with cargo shipped in containers;
- Established the Domestic Nuclear Detection Office which is responsible for conducting research, development, testing, and evaluation of radiation detection equipment; and
- Required that all containers entering high volume U.S. ports be scanned for radiation sources by December 31, 2007.²⁸

The Legislature has continued to introduce improvements to Florida's seaport security policy. The Legislature addressed the issue of a uniform port access credential during the 2003 session. The transportation industry expressed a desire for a single access credential that could be used statewide to facilitate seaport access. As a result, a Florida Uniform Port Access Credential (FUPAC) was provided for in s. 311.125, F.S. This credential as developed in accordance with the statute included deployment of requisite hardware infrastructure. At the same time, the federal government attempted to develop its own credential known as the Transportation Worker Identification Credential (TWIC). A concerted effort was made to develop system compatibility between FUPAC and TWIC. As the systems were developed, it became increasingly clear that dually compatible hardware systems were unnecessary. It was determined that the solution to meeting both state and federal goals in providing adequate seaport security could be achieved through systems process alignments and adequate data sharing. In 2008, the federal government began a final effort to field the TWIC as a nationwide identification credential that can be used in conjunction with other access control procedures to grant seaport access permission. Florida's seaports are authorized to develop specific procedures for granting and controlling seaport access pursuant to s. 311.12, F.S., and individual seaport permissions. All of the active seaports listed in ch. 311, F.S., with one exception, use a local issue credential for such permission and control in addition to the TWIC which is used for identification purposes. In addition, individual terminals and facilities within the ports may require separate credentials. One seaport has adopted the TWIC as its sole access credential.

The federal TWIC is being deployed in at least two phases. Phase I, the current deployment, provides for the issuance of credentials to be used as photo identification cards only. Phase II, which has been delayed indefinitely due to contract issues with federal vendors, would provide fully interactive, biometric reader capability use of the card. There is no known target date for full implementation of the biometric capability.

In 2006, the Legislature further developed a system of seaport security area designations that are provided for in s. 311.111, F.S. These designations do not coincide with federal security area definitions found in the CFR. This disparity has presented difficulties when attempting to align state and federal seaport security efforts.

Overall, the seaport security environment has changed significantly since 2001. The federal government has introduced numerous programs and initiatives to address the threat of terrorism against the nation's seaport. Florida recognizes the threat of terrorism and has adapted its seaport

²⁸ The Security and Accountability for Every Port Act of 2006 (P.L. 109-347).

security policy to include the threat of terrorism in addition to its original efforts to combat drug trafficking, money laundering, and cargo theft on its seaports.

III. Effect of Proposed Changes:

Senate Proposed Bill 7054 substantially amends s. 311.12, F.S. The bill retains certain portions of Florida's current seaport security law while realigning other portions to present an overall program that better coincides with federal seaport security regulations and reduces duplication of effort and confusion between state law and federal regulations. The bill repeals s. 311.111, F.S. relating to seaport security area designations and s. 311.125, F.S., relating to the Uniform Port Access Credential. Residual language from those sections is placed in s. 311.12, F.S.

Current law remains unchanged with respect to minimum seaport security standards and the listing of Florida seaports that are subject to those standards, a requirement that subject seaports adopt a seaport security plan and the Office of Drug Control and the Department of Law Enforcement (FDLE) review and approve those plans, an annual seaport security inspection program, regular legislative review of ongoing security operational costs to seaports, and the establishment of the Seaport Security Standards Advisory Council.

The bill provides for the following changes to Florida seaport security law:

Currently, s. 311.12, F.S., allows that a seaport may be determined to be inactive for purposes of meeting minimum security standards. The bill allows FDLE to exempt all *or part* of a seaport from minimum standards if they are determined not to be vulnerable to criminal activity or terrorism. This change provides flexibility in application of standards.

The bill:

- Deletes a requirement for quarterly threat assessments by the seaport director. Instead, the bill allows for greater flexibility in security plan revision by basing such plan revisions on the director's ongoing assessment of security risks, the risk of terrorist activities, and the specific and identifiable needs of the seaport;
- Corrects a previous drafting oversight by including FDLE along with the Office of Drug Control and the Florida Seaport Transportation and Economic Development Council as the entities responsible for determining the allocation of any funds appropriated for seaport security based on security projects identified in approved security plans; and
- Deletes s. 311.111, F.S. security area designations. The bill retains use of the term "Restricted Access Area," which better aligns Florida seaport security definitions with federal definitions.

SPB 7054 repeals s. 311.125, F.S., and deletes all references to the Florida Uniform Port Access Credential and the Department of Highway Safety and Motor Vehicles. This change removes the requirement in current law to develop a statewide port access credential. The bill instead provides for an access eligibility reporting system for ascertaining access eligibility at each public seaport. Each listed seaport is responsible for granting, modifying, restricting, or denying access to workers, visitors who have business with the seaport, and other persons regularly

appearing at the seaport and for verifying a person's eligibility for access at its location. FDLE is directed to administer the statewide system which at a minimum must include:

- A centralized secure database;
- A methodology for transmitting data between the department and each seaport; and
- The ability to identify persons who are in violation of the requirements of this section and deactivate their access eligibility.

Further, the bill:

- Defines "visitor" and "cruise ship passenger" and provides procedures for entry for those defined persons into restricted access areas. Seaport visitors must, at a minimum, stop at a check point, show valid identification, and receive a visitor's pass that must be prominently displayed before proceeding. Cruise ship passengers are added to the list of persons who may be given permission to enter a restricted access area after presentation of valid identification and boarding documents;
- Deletes references to certain Federal Emergency Management Agency circulars relating to terrorist risk assessments. Current requirements for the seaport director's risk assessment remain unchanged;
- Retains the current law requirement that a criminal history check serve as the basis for determining specific access eligibility for persons who regularly access seaport restricted access areas. That portion of s. 311.125, F.S. relating to the requirement of employers to notify seaports of eligibility status changes is retained in s. 311.12, F.S.;
- Clarifies a current requirement that a random, but at a minimum annual, criminal history check to be performed to determine that the person has not committed a disqualifying offense that would require access termination. The bill specifies that a Florida Crime Information Center name-based criminal history check be used and authorizes FDLE to restrict or revoke access eligibility if the check discloses suspected terrorism or criminal violations that would affect security at the seaport; and
- Adds certain criminal offenses to the list of those state offenses that currently disqualify a person for employment or unescorted access on a seaport. This change brings Florida's list of disqualifying offenses into better alignment with federal regulations, since these crimes are disqualifying at the federal level. The added offenses include:
 - Criminal anarchy or inciting insurrection;
 - Use of commercial transportation in the commission of a felony;
 - Racketeering activity;
 - Extortion;
 - Money laundering;
 - Criminal use of personal identification;
 - Bribery; and
 - A violation of s. 316.302, F.S., relating to the transport of hazardous materials;

Section 311.12, F.S., requires that a report of findings from FDLE inspections be made available to the Domestic Security Oversight Council and to each inspected seaport. The bill provides that the council may concur in the findings of the department or the seaport, or may make its own corrective action recommendations to the seaport. Pursuant to this proposal, seaport directors are

required to immediately implement any security changes or needed improvements upon completion of a review by the Domestic Security Oversight Council.

The bill adds the governing body of each seaport or seaport authority to the list of persons who receive a copy of FDLE's required annual seaport security report.

SPB 7054 amends ss. 311.123, 943.0585, and 943.059, F.S., to reflect reference changes resulting from the reorganization of s. 311.12, F.S., and the repeal of s. 311.125, F.S.

The bill amends s. 311.124, F.S., to conform terms and references resulting from the reorganization of s. 311.12, F.S.

The bill amends s. 311.13, F.S., to delete unnecessary references to "a seaport authority created by an act of the Legislature."

The bill provides for an effective date of July 1, 2009.

Other Potential Implications:

Federal and state agencies have worked together for over six years to resolve issues related to jurisdiction on public seaports. Florida laws and federal regulations have evolved during the period. In some cases, the evolutions have been collaborative, in others, the policies have diverged. The federal government has created an entire new set of regulations in a very short time. While the work that has been done at the federal level has been good, the work product is not yet complete.

This proposed legislation takes into account policy areas where state laws and federal regulations may be easily aligned, such as definitions of restricted access areas within the port, and repeals parts of the Florida law that are no longer necessary due to federal regulations. It does not remove the state from its responsibilities to provide protection to those who work on, traverse, or live near its seaports.

In time, federal regulations may reach a point where they provide a responsible level of security on Florida's public seaports. Much progress has been made, but the federal Transportation Worker Identification Credential (TWIC) program is only partially implemented at this time and does not include any real-time biometric verification process. All of Florida's seaports are technically able to perform this verification process, as required by s. 311.12, F.S.

The federal TWIC waiver process presents real problems for Florida law enforcement, as the federal government will not disclose which credentials are issued under waiver. There have already been cases where federal credentials were issued to persons not eligible to enter ports under Florida law. These cases have involved drug traffickers, a sexual predator, and an armed robber.

The combination of the TWIC photo identification card, and the state verification process to determine a person's eligibility to enter a public seaport provides the current level of security.

Reduction in this level of security would reduce the ability to keep the level of criminal activity and possible terrorist activity on the ports at a minimum.

At some point in the future, the federal TWIC program may be more sufficient in meeting law enforcement concerns, but those concerns are not met with the current implementation of the TWIC. Discussions between the Department of Law Enforcement, the Governor's Office of Drug Control, and federal agencies are ongoing to try to resolve the remaining issues relative to information sharing that would allow state law and federal regulations to more fully align.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Repeal of s. 311.125, F.S., relating to the Uniform Port Access Credential will result in an indeterminate cost savings to seaport employers and workers, those persons whose business purposes require regular seaport access, and to transportation industry workers who frequently access Florida's seaports. Such persons will continue to incur the costs of obtaining a federal TWIC card, state criminal history background checks, and multiple local seaport issued access cards.

C. Government Sector Impact:

Current law requires those seaports which receive state funding and are listed in ch. 311, F.S., to provide for adequate seaport security. The Congressional Research Service estimates that a terrorist detonation of a 10- to 20-kiloton nuclear device at a major seaport (a low probability but high consequence event) would kill 50,000 to 1 million people, would result in direct property damage of \$50 to \$500 billion, incur trade disruption losses of \$100 to \$200 billion, and incur indirect costs of \$300 billion to \$1.2

trillion.²⁹ A Florida Ports Council commissioned study reports that the seaports covered under ch. 311, F.S. spent approximately \$57 million in 2007 for operational security.³⁰

The bill does not change current requirements for seaport security expenditures with the exception stated above in the Private Sector Impact section.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Several staff recommendations offered in Senate Interim Project Report 2009-122 are not addressed in SPB 7054 due to time and funding considerations. For example, the Camber Report which forms the basis of Florida seaport security standards is generally accepted as outdated. The project report presented the option that a follow-up third-party review be commissioned by the state. Such a study, which is needed, would require a period of time to commission and conduct. It would also require an appropriation to fund. Staff has asked FDLE and the Office of Drug Control to determine if any federal grants programs might be available for this purpose. To date, none have been identified.

An additional alternative has surfaced since the Interim Project Report. It may be possible to create an accreditation process that would certify seaport security programs thereby simplifying the current statutory inspection and review program. There are possible cost and efficiency savings in this approach which make this alternative worthy of consideration. Again, however, this alternative will require further time for thorough consideration and possible development.

Finally, if a solution can be found to provide information sharing between federal and state law enforcement agencies, the state could possibly pursue doing away with background checks for persons willing to sign an affidavit declaring that they are not convicted of any disqualifying crimes. Failure to truthfully disclose such information could then result in a criminal penalty. This solution would require both federal cooperation and a change in state law. Changing state law without first resolving the federal information sharing issue would be premature. Federal and state agencies continue to pursue this ultimate solution which would truly align state law and federal regulations, but final resolution on this issue has not yet occurred.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

²⁹ Congressional Research Service, Terrorist Nuclear Attacks on Seaport: Threat and Response, January 24, 2005.

³⁰ First Southwest Company, The Capacity of Florida's Seaports to Fund Their Five-Year Capital Improvement Programs and the Cost of Mandated Seaport Security, February 13, 2008.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
